

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE MENA-VALDEZ,

Defendant.

8:19CR65

ORDER

This matter comes before the Court on Defendant's, Jose Mena-Valdez's, Notice of Appeal, [Filing No. 114](#), and Motion for Leave to Proceed in Forma Pauperis on Appeal, [Filing No. 115](#).

Mena-Valdez seeks to appeal the Court's order denying his motion under [28 U.S.C. § 2255](#), [Filing No. 110](#). [Filing No. 114](#). As set forth in greater detail in that order, the Court declined to issue a certificate of appealability. See [Filing No. 110 at 14](#). However, [Federal Rule of Appellate Procedure 22\(b\)](#) allows a defendant to seek a certificate of appealability from the Court of Appeals in such circumstances.

As to Mena-Valdez's request to proceed in forma pauperis on appeal, the Court finds such request should be granted. See [Fed. R. App. P. 24\(a\)\(3\)](#) (permitting a party to proceed in forma pauperis on appeal where he or she was previously granted in-forma-pauperis status). Accordingly,

IT IS ORDERED:

1. [Filing No. 115](#) is granted. The defendant may proceed in forma pauperis on appeal.

2. The Clerk of the Court shall process this appeal to the Eighth Circuit Court of Appeals.

Dated this 6th day of September, 2023.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge